

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL JOSEPH YOUNG,

Plaintiff,

v.

JEFF LYNCH, et al..

Defendants.

No. 2:22-cv-0487 DB P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action under 42 U.S.C. §1983. Before the court is plaintiff's first amended complaint for screening. For the reasons set forth below, this court finds plaintiff has stated some claims, and gives plaintiff an opportunity to either file an amended complaint or proceed on the cognizable claims in her first amended complaint.

BACKGROUND

Plaintiff is incarcerated at California State Prison, Sacramento. She complains of conduct that occurred there in 2019. On screening plaintiff's original complaint, this court found: (1) plaintiff stated cognizable Eighth Amendment excessive force claims against Correctional Officers M. Sotelo, D. Giardino, and R. Bell; (2) plaintiff stated a cognizable claim that defendant Giardino was deliberately indifferent to her serious medical needs in violation of the Eighth Amendment; and (3) plaintiff failed to state claims against defendants Warden Lynch or

1 Correctional Sergeant Doe. This court permitted plaintiff to choose to proceed on her cognizable
2 claims or file a first amended complaint. Plaintiff chose to file a first amended complaint.

3 **SCREENING**

4 As described in this court's prior screening order, the court is required to screen complaints
5 brought by prisoners to determine whether they sufficiently state claims under 42 U.S.C. § 1983.
6 28 U.S.C. § 1915A(a). The prisoner must plead an arguable legal and factual basis for each claim
7 in order to survive dismissal. Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th Cir. 1984). In
8 addition, the prisoner must demonstrate a link between the actions of each defendant and the
9 deprivation of his rights. Monell v. Dept. of Social Servs., 436 U.S. 658 (1978). "A person
10 'subjects' another to the deprivation of a constitutional right, within the meaning of § 1983, if he
11 does an affirmative act, participates in another's affirmative acts or omits to perform an act which
12 he is legally required to do that causes the deprivation of which complaint is made." Johnson v.
13 Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

14 In the first amended complaint, plaintiff again adequately alleges claims against Correctional
15 Officers M. Sotelo, D. Giardino, and R. Bell for excessive force and against Giardino for
16 deliberate indifference to her medical needs. Plaintiff will be permitted to proceed on these
17 Eighth Amendment claims.

18 With respect to defendant Doe, plaintiff alleges Doe witnessed the excessive force incident
19 but failed to follow protocol by documenting the excessive force. This failure permitted the other
20 defendants to file false reports regarding the incident, resulting in an extension of plaintiff's time
21 in segregation. These allegations do not state a claim under § 1983. Plaintiff has no
22 constitutional right to have an officer follow prison protocols or report the conduct of other
23 officers. See Cousins v. Lockyer, 568 F.3d 1063, 1070 (9th Cir.2009) (alleged failure to follow
24 prison policy does not establish federal constitutional violation). Further, to the extent plaintiff
25 alleges Doe intentionally aided in the filing of false reports, as plaintiff was informed in this
26 court's prior screening order, the falsification of a disciplinary report does not state a stand-alone
27 constitutional claim. See Sprouse v. Babcock, 870 F.2d 450, 452 (8th Cir. 1989) (no right to be
28 free of false charges); Luster v. Amezcua, No. 1:16-cv-0554-DAD-GSA-PC, 2017 WL 772141, at

1 *5 (E.D. Cal. Feb. 27, 2017). Plaintiff's claims against defendant Doe will be dismissed.

2 Plaintiff next alleges she told defendants Sotelo, Giardino, and Bell she intended to file
3 grievances against them for excessive force. In retaliation, they conspired to provide false
4 information, and did provide false information, for a disciplinary action against plaintiff. These
5 allegations are sufficient to state a claim that defendants Sotelo, Giardino, and Bell retaliated
6 against plaintiff in violation of her First Amendment rights. See Rhodes v. Robinson, 408 F.3d
7 559, 567-68 (9th Cir. 2005) (footnote omitted); see also Nyland v. Calaveras Cty. Sheriff's Jail,
8 688 F. App'x 483, 485 (9th Cir. 2017).

9 Finally, plaintiff contends defendant Lynch denied plaintiff's grievances regarding the
10 actions of the other defendants. As a result, those other defendants were not disciplined and
11 plaintiff was prejudiced in "seeking justice against them." Plaintiff fails to state claims against
12 Lynch under § 1983 for several reasons. First, prison officials are not required under federal law
13 to process inmate grievances in a specific way or to respond to them in a favorable manner. It is
14 well established that "inmates lack a separate constitutional entitlement to a specific prison
15 grievance procedure." Ramirez v. Galaza, 334 F.3d 850, 860 (9th Cir. 2003) (citing Mann v.
16 Adams, 855 F.2d 639, 640 (9th Cir. 1988)). Second, plaintiff fails to show he has a constitutional
17 right to have an officer disciplined, and this court is aware of no such right. Third, plaintiff fails
18 to show Lynch intentionally prevented her from "seeking justice" and that she has, in fact, been
19 denied the right to pursue claims against the other defendants.

20 CONCLUSION

21 This court finds above that plaintiff has stated the following cognizable claims: (1) Eighth
22 Amendment excessive force claims against defendants Giardino, Sotelo, and Bell; (2) an Eighth
23 Amendment medical claim against defendant Giardino; and (3) First Amendment retaliation
24 claims against Giardino, Sotelo, and Bell. This court further finds that plaintiff has failed to state
25 any other claims.

26 Plaintiff has a choice. She may proceed on her Eighth and First Amendment claims against
27 Giardino, Sotelo, and Bell or she may amend the first amended complaint to attempt to also state
28 other claims. Plaintiff is advised, however, that this court finds it very unlikely she will be able to

1 state claims against defendants Doe or Lynch. On the facts plaintiff has presented, this court is
2 unable to discern any potential constitutional claims against either defendant. That said, this
3 court will give plaintiff one final opportunity to attempt to state claims against those defendants,
4 if she wishes.

5 In the prior screening order, this court set out the standards for filing an amended complaint.
6 They will not be restated here. Plaintiff is reminded that in any amended complaint she must
7 include all claims she wishes to proceed on in this action and must allege facts showing just how
8 each defendant violated her constitutional rights.

9 For the foregoing reasons, and good cause appearing, IT IS HEREBY ORDERED as
10 follows:

11 1. Plaintiff has stated Eighth Amendment claims against defendants Giardino, Sotelo,
12 and Bell for excessive force; an Eighth Amendment medical claim against Giardino; and First
13 Amendment retaliation claims against Giardino, Sotelo, and Bell.

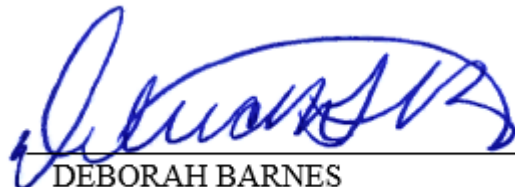
14 2. Plaintiff's claims against Lynch and Doe are dismissed with leave to amend.

15 3. Plaintiff may choose to proceed on her cognizable claims set out above or she may
16 choose to amend her first amended complaint.

17 4. Within thirty days of the date of this order, plaintiff shall fill out and return the
18 attached form indicating how she would like to proceed.

19 5. Plaintiff is warned that her failure to comply with this order may result in a
20 recommendation that this action be dismissed.

21 Dated: July 6, 2022

22
23 
24 DEBORAH BARNES
25 UNITED STATES MAGISTRATE JUDGE
26

27 DLB:9/DB prisoner inbox/civil rights/S/youn0487.FAC scrn lta or proceed
28

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PLAINTIFF'S NOTICE ON HOW TO
PROCEED

Check one:

_____ Plaintiff wants to proceed immediately on her Eight Amendment excessive force claims against defendants Giardino, Sotelo, and Bell, her Eighth Amendment medical claim against defendant Giardino, and her First Amendment retaliation claims against defendants Giardino, Sotelo, and Bell. Plaintiff understands that by going forward without amending the complaint she is voluntarily dismissing all other claims.

_____ Plaintiff wants to amend the first amended complaint.

DATED: _____

Plaintiff Daniel Joseph Young, Pro Se